

Message Text

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46

ACTION EUR-25

INFO OCT-01 ADP-00 EURE-00 SCA-01 JUSE-00 L-03 INRE-00

CIAE-00 INR-10 NSAE-00 RSC-01 SSO-00 TRSE-00 SEC-03

RSR-01 /045 W

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O 171700 Z MAY 73

FM AMEMBASSY BERN

TO SECSTATE WASHDC IMMEDIATE 7719

LIMITED OFFICIAL USE BERN 2011

DEPT FOR EUR/ CE SUTTERLIN, L MCDOWELL; PASS JUSTICE PETERSEN;
PASS TREASURY MORGAN; PASS SEC POLLACK

E. O. 11652: N/ A

TAGS: EFIN, PFOR, US, SZ

SUBJ: JUDICIAL ASSISTANCE TREATY - ARTICLE 5

1. FOLLOWING CHANGES HAVE BEEN AGREEDON AD REFERENDUM BASIS TO
NOTES ACCOMPANYING ARTICLE 5:

"(A) THE LIMITATIONS ON USE SET FORTH IN ARTICLE 5 ARE INTENDED
ONLY AS AN AGREEMENT BETWEEN GOVERNMENTS AND, AS PROVIDED IN
PARAGRAPH 1 OF ARTICLE 36, DO NOT GIVE RISE TO A RIGHT ON THE
PART OF ANY PERSON TO TAKE ANY ACTION IN THE UNITED STATES TO
SUPPRESS OR EXCLUDE ANY EVIDENCE OR TO OBTAIN OTHER JUDICIAL
RELIEF. WHERE ANY PERSON ALLEGES THAT ANY AUTHORITY IN THE UNITED
STATES HAS USED MATERIALS OBTAINED FROM SWITZERLAND IN A MANNER
INCONSISTENT WITH THE LIMITATIONS OF ARTICLE 5, HIS RECOURSE
WOULD BE FOR HIM TO INFORM THE CENTRAL AUTHORITY OF SWITZERLAND
FOR CONSIDERATION ONLY AS A MATTER BETWEEN GOVERNMENTS AND HE HAS
NO STANDING TO HAVE SUCH ALLEGATIONS CONSIDERED IN ANY PROCEEDING
IN THE UNITED STATES. WHERE SUCH ALLEGATIONS ARE DEEMED BY THE
REQUESTED STATE TO REQUIRE EXPLANATION, AN INQUIRY WILL BE PUT
TO THE REQUESTING STATE. THE RESPONSE OF THAT STATE MAY, AS
APPROPRIATE, BE IN WRITING OR AN ORAL EXCHANGE PURSUANT TO THE
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CONSULTATION PROCEDURE OF PARAGRAPH 1 OF ARTICLE 38.

" (B) THE REFERENCE IN SUBPARAGRAPH B OF PARAGRAPH 3 OF ARTICLE 5 TO " ANY CRIMINAL INVESTIGATION OR PROCEEDING FOR WHICH ASSISTANCE MAY BE GIVEN" INCLUDES INVESTIGATIONS OR PROCEEDINGS FOR WHICH ASSISTANCE IS REQUIRED TO BE OR MAY BE GRANTED UNDER THE TREATY, WHETHER OR NOT COMPULSORY MEASURES WOULD OR COULD BE UTILIZED.

"(C) SAME.

"(D) THE LIMITATIONS ON USE SET FORTH IN ARTICLE 5 ARE NOT INTENDED TO APPLY TO THE SUBMISSION OF ADDITIONAL REQUESTS FOR ASSISTANCE UNDER THE TREATY WHERE THE REQUESTS RELATE TO OFFENSES WHICH ARE EITHER LISTED IN THE SCHEDULE OR WHICH ARE SERIOUS IN THE SENSE OF PARAGRAPH 2 OF ARTICLE 10.

"(E) THE LIMITATIONS ON USE SET FORTH IN ARTICLE 5 ARE NOT INTENDED TO APPLY TO ANY USE TO WHICH THE REQUESTED STATE SPECIFICALLY CONSENTS.

END QUOTE

2. JA TEAM CONCURS ABOVE NONSUBSTANTIVE CHANGES. GERMAN TEXT WILL FOLLOW. AUTHORIZATION TO INCORPORATE CHANGES ENGLISH TEXT REQUESTED.
PERCIVAL

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NMAFVVZCZ

*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PFOR
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAY 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973BERN02011
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: BERN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730548/aaaajkn.tel
Line Count: 90
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 28 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28-Sep-2001 by rowelle0>; APPROVED <03-Dec-2001 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> mcm 980219
Subject: JUDICIAL ASSISTANCE TREATY - ARTICLE 5
TAGS: EFIN, SZ, US
To: EUR
SECSTATE WASHDC
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005